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11 SHOOM, INC.

12  
13 SHOOM, INC. ) Case No. C 07-05612 (JCS)  
14 Plaintiff, )  
15 vs. )  
16 ELECTRONIC IMAGING SYSTEMS OF )  
17 AMERICA, INC. )  
18 Defendant. )  
19 \_\_\_\_\_)

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SAN FRANCISCO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**CASE MANAGEMENT STATEMENT**

Judge: Hon. Joseph C. Spero  
Ctrm: A, 15<sup>th</sup> Floor  
Date: April 4, 2008  
Time: 9:30 AM

1 Plaintiff Shoom submits this Case Management Statement.  
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4 **1. Jurisdiction and Service**  
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7 **Service**  
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10 The complaint and summons were properly served upon eISA as plead in  
11 Shoom's Request for Entry of Default filed on or about December 3, 2007. eISA is  
12 well aware of the present action. John Metsig, president of Defendant eISA, stated in  
13 writing on January 9, 2008 that he has no intent to pursue the current litigation and  
14 will default. eISA has indeed chosen to not enter an appearance in this action. As of  
15 this writing, counsel for Shoom has received no request to set aside the default  
16 entered by the Clerk.  
17

18 **Jurisdiction**  
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21 Personal jurisdiction, subject matter jurisdiction and venue are well plead in  
22 the Complaint and factually supported by the docket sheets filed as exhibits to the  
23 Complaint.

24 In brief summary, subject matter jurisdiction is factually supported by, *inter*  
25 *alia*, eISA's suit against Shoom, *eISA v. Gannet, Shoom, et al*, Northern District of  
26 Illinois, 07 C 0791 filed on or about February 9, 2007 wherein eISA sued Shoom and  
Shoom's customer Gannet for patent infringement. Failing to find personal  
jurisdiction against Shoom, eISA filed a dismissal without prejudice; however, a  
"substantial controversy" between the parties continues as contemplated by  
*MedImmune Inc. v. Genentech Inc.*, 127 S. Ct. 764 (2007) and *Micron Technology Inc. v.*  
*Mosaid Technologies, Inc* (Fed. Cir. 2007-1080) decided February 29, 2008. With the  
suit in Chicago dismissed without prejudice, Shoom now faces uncertainty in the  
marketplace as Shoom's customers were and are fearful of being sued as a result of

1 using Shoom's electronic invoicing system. As of this writing, Gannet refuses to  
2 implement Shoom's invoicing system until the dispute with eISA is resolved. eISA's  
3 suit against Gannet in Chicago, continues to harm Shoom's business with Gannett.

4       There is no love loss between the parties as Edward Manzo, counsel for eISA  
5 accused Shoom and Gannett of willful patent infringement on February 12, 2007. See  
6 Exhibit 5 to the Complaint. This was shocking to Shoom, as eISA avoided subject  
7 matter jurisdiction by arguing that Shoom did not have a reasonable apprehension of  
8 being sued by eISA in *Shoom v. eISA* 3:05-cv-03434-MJJ filed on August 24, 2005,  
9 ("*Shoom v. eISA 1*"). In *Shoom v. eISA 1*, the pre MedImmune test of "a reasonable  
10 apprehension of suit" was applied, resulting in a dismissal, as eISA had yet to sue  
11 anyone for patent infringement. Now with the subsequent filing of *eISA v. Gannett*,  
12 *Shoom et al* in Chicago and Manzo's letter accusing Shoom of willful patent  
13 infringement , subject matter jurisdiction is conferred under Article III of the United  
14 States Constitution or under the Declaratory Judgment Act, 28 U.S.C § 2201. Under  
15 any test, there is a sufficient "case in controversy" to confer subject matter  
16 jurisdiction. Shoom now comes before the Court to end a lengthy and expensive  
17 controversy.

18

19       **2.      Facts:**

20       This is a patent suit for a declaratory judgment of noninfringement only.  
21 Unlike the two prior lawsuits between the parties, the issue of patent invalidity is not  
22 raised in this case.

23       eISA's intentional default in this matter seems consistent with eISA's recent  
24 request for a dismissal of *eISA v. MerlinOne*, U.S. District Court , Northern District of  
25 Illinois, Eastern Division, Case No. l: 1:07-cv-01490. In *eISA v. MerlinOne*, counsel for  
26 eISA, Mr. Edward Manzo, requested a dismissal without prejudice, the court denied  
27 the request and dismissed eISA's action with prejudice on March 5, 2008. See Exhibit

1 2, Docket Entry by Clerk on March 5, 2008. eISA sued MerlinOne for patent  
2 infringement on March 16, 2007. No one knows where eISA will strike next.

3 There appears to be no factual issues in dispute. eISA contests neither the  
4 manner or means of service nor Shoom's assertions of non infringement of the  
5 patents in suit.

6

7 **3. The principal legal issues that the parties dispute:**

8 None.

9

10 **4. Motions**

11 Shoom's Motion for Default Judgment is currently set for April 4, 2008  
12 at 9:30 AM in Court Room A before the Court. Shoom is confident that the  
13 motion will resolve the case and allow Shoom to proceed with its innovative  
14 methods of providing newspapers with electronic tear sheets and electronic  
15 invoices. Shoom's requested relief does not require the court to consider the  
16 validity of the patents in suit.

17

18 **5. Amendment of Pleadings:**

19 No amendments are anticipated.

20

21 **6. Evidence Preservation:**

22 Evidence of Shoom's non infringement of the patents in suit has been well  
23 preserved.

24

25 **7. Disclosures:**

26 As eISA has failed to make an appearance in this action, no disclosures have  
27 been exchanged.

1       **8.      Discovery:**

2           As the claims of the patents in suit are publicly available, no discovery by  
3 Shoom has been requested. As part of the prior lawsuits, Shoom has obtained the file  
4 wrappers for the patents in suit and has carefully studied Shoom's own means of  
5 producing electronic invoices.

6       **9.      Class Actions: N/A**

7       **10.     Related Cases:**

8           To the best knowledge of Shoom, there are no other current cases between  
9 Shoom and eISA. There were the previous cases of *Shoom v. eISA 1*, filed in 2005, and  
10 *eISA v. Gannett, Shoom et al* filed in 2007, as discussed above in Section 1. On March 5,  
11 2008, eISA concluded its case against MerlinOne, a provider of electronic invoices.  
12

13       **11.     Relief:**

14           Shoom seeks and is entitled to an order from the Court declaring that Shoom's  
15 methods do not infringe upon the patents in suit. Shoom also seeks monetary  
16 damages of \$350 dollars for the filing fee of the Complaint and \$47 dollars for the  
17 cost of service upon eISA.  
18

19       **12.     Settlement and ADR:**

20           No settlement or ADR discussions have occurred. The relief specified above  
21 would allow Shoom to continue its business and allow eISA to pursue others for  
22 patent infringement. A default judgment as requested by Shoom would settle this  
23 matter for Shoom and Shoom's customers.  
24

25       **13.     Consent to Magistrate Judge for All Purposes:**

26           Shoom has filed such consent. eISA has filed nothing in this action, as of this  
27 writing.

1           **14. Other References : N/A**

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3           **15. Narrowing of Issues:**

4                 Based upon eISA's decision to not participate in this matter, no  
5                 agreements are possible.

6           **16. Expedited Schedule: N/A**

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8           **17. Scheduling:**

9                 After the hearing set for April 4, 2008, no further scheduling should be  
10                needed.

11           **18. Trial: N/A**

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13           **19. Disclosure of Non-party Interested Entities or Persons**

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15                 Shoom did file a "Certification of Interested Entities or Persons" with the Court  
16                on November 30, 2007. Plaintiff Shoom, Inc., is a Delaware Corporation and is wholly  
17                owned by TransData International, Inc., a Delaware Corporation.

18  
19           DATED: March 26, 2008

ALLMAN & NIELSEN  
Steven A. Nielsen

20  
21                 By: /s/ Steven A. Nielsen

22  
23                 Attorneys for Plaintiff  
24                Shoom, Inc.